BOMBAY ACT No. VI OF 1862[a].

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 14th October, 1862.)

An Act for the amelioration of the condition of táluqdárs in the Ahmadabad Collectorate, and for their relief from debt.

Preamble.

WHEREAS the lands held in the zila of Ahmadabad in the Province of Gujarát under the title of táluqdárí estates are now only held on leasehold tenure determinable at the pleasure of Government; and whereas it has been brought to the notice of Government that many of the táluqdárs are in embarrassed circumstances and have borrowed money on the security of their landed estates; and whereas such of the said landed estates as are of the táluqdárí tenure aforesaid could not and cannot be lawfully charged, encumbered or alienated; and whereas it is expedient to enable the said táluqdárs to effect a settlement of their debts and liabilities; It is hereby enacted as follows:—

Power to make declaration vesting management of estates of táluqdár in officer appointed by Government.

1. Whenever it shall appear to the Governor in Council that any táluqdár in the zila aforesaid is subject either personally or in respect of his landed estates of any description of tenure to debts or liabilities equal to or exceeding five times the average rents, profits and other annual income derived by the táluqdár from his estates aforesaid during the previous five years after deducting thereout the land-tax and other dues of Government, it shall be lawful for the Governor in Council to make a declaration [b] vesting the management of the said estates in an officer [c] or officers who shall then be appointed by the Governor in Council in that behalf, and the said declaration shall be published in the Bombay Government Gazette.

After declaration, suits in respect of debts or liabilities in first section mentioned, other than debts to Government, to be permanently stayed.

2. From and after the publication of said declaration as aforesaid, all suits or judicial proceedings for or in respect of debt or liabilities in the first section above-mentioned, other than debts due or liabilities incurred to the Crown or Government, pending before or under appeal from any of the Civil Courts in the said Presidency, shall be, and are hereby declared to be, permanently stayed, and no further prosecution thereof shall be permitted, and all writs, processes, executions or attachments for or in respect of such debts and liabilities shall forthwith cease and be raised.

Power to remove mortgagee or encumbrancer

3. From and after the publication of such declaration, the said officer or officers shall have power, without resorting to any Civil Court, to remove from

[a] As to the validity of Bom. Act VI of 1862, so far as it purports to affect the High Court of Judicature at Bombay, see Act XIV of 1877, s. 39, printed in Vol. I of this Code, p. 161.

[b] It is enacted in Bombay Act VI of 1888, s. 34 (printed in Vol. III of this Code), that no new declaration shall be made under s. 1 of Bom. Act VI of 1862 at any time after six months from the date on which the former Act came into force (*i.e.*, the 25th March, 1889).

[c] As to the investment of the Táluqdárí Settlement-officer mentioned in the Broach and Kaira Incumbered Estates Act, 1881, s. 7, with powers under this section, see Act XIV of 1877, s. 40 (*a*), printed in Vol. I of this Code, p. 161.

possession of the landed estates of the táluqdár of any description of tenure, or any part thereof, any mortgagee or other encumbrancer who may be in possession of the same, without prejudice to such mortgagee or encumbrancer bringing his claim under sections 8 and 9 before the officer or officers appointed for the management of the said estates. from possession of estates of táluqdár.

4. From and after the publication of such declaration as aforesaid, the táluqdár, the subject of such declaration, shall not be liable to arrest, nor shall his personal estates of any description whatsoever be liable to seizure, attachment or sale under any process, decree, judgment or execution of the Civil Court of the Presidency of Bombay for or in respect of any debts or liabilities existing at the time of such declaration, other than debts due or liabilities incurred to the Crown or Government. After declaration, táluqdár not liable to arrest in respect of debts other than debts due to Government.

5. From and after the publication of such declaration as aforesaid, the landed estates of such táluqdár of any description of tenure and the rents, profits and income thereof shall, during the period of the management thereof by the said officer or officers, be wholly exempt from seizure, attachment or sale under or by virtue of any process, decree, judgment or execution of any Civil Court of the Presidency of Bombay for or in respect of the debts and liabilities aforesaid, other than debts due or liabilities incurred to the Crown or Government. During management, estates exempt from civil process in respect of debts and liabilities aforesaid.

6. It shall be lawful for the Governor in Council to make rules for the purpose of carrying this Act into effect, and from time to time to alter, vary or amend such rules as necessity may arise. Power to make and alter rules.

7. The said officer or officers shall, during the continuance of his or their management of the said estates, receive the whole of the rents, profits and income thereof, and shall defray thereout land-tax and other debts due or liabilities incurred, or hereafter respectively to grow due or to be incurred, to the Crown or Government, and pay to the táluqdár such annual sum only as shall appear to the Governor in Council requisite for the decent support of the táluqdár and his family, and any balance remaining after such payment as aforesaid shall be applied in discharge of the expenses of such management as aforesaid and in liquidation or settlement of the debts and liabilities to which at the time of the publication of the said declaration the táluqdár is subject either personally or in respect of his landed estates of any description of tenure, in accordance with the rules alluded to in the last preceding section. Managing officer to receive rents, profits and income; and pay for support of táluqdár and family, expenses of management; and settle debts and liabilities, in accordance with rules.

8. The said officer or officers shall publish in the Bombay Government Gazette a notice in English and Gujaráthi, calling upon all persons having claims against the said táluqdárs or their said landed estates in respect of any of the debts or liabilities aforesaid, to notify the same in writing to such Managing officer to publish notice to claimants against táluq-

dár to notify claims.

officer or officers within three [a] months' time from the time of such notice in the Gazette, and the said officer or officers shall, before or contemporaneously with such publications in the Gazette, cause copies of such notice to be exhibited at the mámlatdárs' kachahrís in the said zila and in such place or places as to such officer or officers shall seem fit and as may be directed by the said rules.

Publication of copies of notice.

Debt or liability not notified to be barred.

9. Any debt or liability of the táluqdár other than as aforesaid, to which he is subject, either personally or in respect of the said landed estates, existing at the time of the said declaration by the Governor in Council not duly notified to the said officer or officers within the time and in the manner in the last preceding sections specified, shall and is hereby declared to be for ever barred:

Upon proof of inability of claimant to comply, claim may be admitted within further period of nine months.

Provided always that, upon proof being given to the satisfaction of such officer or officers of the inability of the claimant to have complied with the provisions of this and the last preceding sections, it shall be lawful for the said officer or officers to entertain and admit such claim within the further period of nine [a] months from the expiration of the above-mentioned period of three months.

Scheme for settlement of táluqdár's debts and liabilities.

10. The said officer or officers shall as early as possible prepare and submit to the Governor in Council a scheme for the settlement of the táluqdár's debts and liabilities, and such scheme, when approved by the Governor in Council, shall be carried into effect.

Amount of debt fixed in scheme not to be increased.

The amount of any debt or liability as fixed in such approved scheme shall not be liable to increase.

Bar of debts disallowed.

Any debt or liability disallowed by such officer or officers shall, if such disallowance be approved by Government, be and it is hereby declared to be for ever barred.

Power to authorize raising of fund for settlement of debts and liabilities.

11. It shall be lawful for the Governor in Council to empower the officer or officers aforesaid to raise a fund to be applied to the settlement of the debts and liabilities of the táluqdár by assigning the whole or a portion of his landed estates of any description of tenure to be held and enjoyed, for a period or periods not exceeding twenty years from the publication of the declaration aforesaid, by any fit person or persons who may advance money on the security thereof, or by the sale of such outlying portion or portions of the said estates as may appear expedient; but in case of such sale the consent of the táluqdár and of his next heir, if the latter be of age, shall first be obtained.

[a] The word repealed by Bom. Act. III of 1886 is omitted.

12. Any debt or liability, except as hereinbefore excepted, which may be incurred by the táluqdár, either personally or in respect to his said landed estates or any part thereof, during the period of such management as aforesaid, shall not be enforceable in any manner whatever, either during or subsequently to such period of management, against his said landed estates or any part thereof, and it shall not be competent for the táluqdár during the said period of management to charge, encumber, sell or alienate his said landed estates or any part thereof, and such charge, encumbrance, sale or alienation shall be null and void.

Debt or liability incurred by táluqdár during management not enforceable against estates.

Incompetency of táluqdár to charge or alienate.

13. It shall be lawful for every officer or officers appointed under this Act to demand and require the production of any writs, decrees, judgments, records, deeds, documents, exhibits, pleadings, books, accounts, letters, petitions, papers or writings filed in any of the suits mentioned in the second section of this Act, or relating to the debts or liabilities of any táluqdár whose landed estates are brought under such management as aforesaid, in the custody or control of any Civil Court, or in the custody or control of any Judges, Judge, Assistant Judge, officer or person connected with such Court, and upon notice being given in writing by such officer or officers to such Civil Court or to any Judges, Judge, Assistant Judge, officer or person connected therewith, such writs, decrees, judgments, records, deeds, documents, exhibits, pleadings, books, accounts, letters, petitions, papers or writings in the said notice mentioned shall be immediately given up to the said officer or officers appointed under this Act, in the manner directed by the said notice, any act, usage or custom to the contrary in anywise notwithstanding.

Civil Courts to give up writs, decrees, papers, etc., when required.

14. It shall be lawful for any officer or officers appointed under this Act to summon witnesses and to take evidence, [a] and it shall also be lawful for the said officer or officers to compel the production of books, accounts, papers, deeds or other documents, and to inflict a fine not exceeding rupees one hundred for disobedience to any sanad or order made under this section.

Power to officer to take evidence, and compel production of books, etc.

15. The officer or officers appointed for the management of the landed estates of any táluqdár under this Act shall have, for the purpose of the realization and recovery of the rents, profits and income of such landed estates, the same powers as a Collector possesses under the Regulations or Acts now or hereafter in force for the realization and recovery of land-revenue due to Government.

Powers of managing officer for realizing rents and profits.

16. The management of the landed estates of any táluqdár by such officer or officers as aforesaid shall not extend beyond the period of twenty years, to

Management limited to twenty years,

[a] Words repealed by Act XII of 1876 are omitted.

and, at its expiration, claims, etc., to be considered settled.

be calculated from the first publication of such declaration as aforesaid in the Bombay Government Gazette, and at the expiration of such management, whether before or at the end of such period of twenty years, all debts and liabilities (except as hereinbefore excepted) existing at the time of such declaration, and comprised in such approved scheme as aforesaid, shall be deemed to be for all intents and purposes whatsoever fully discharged and satisfied, and neither the táluqdár nor his heirs nor representatives, nor his, her nor their estates, whether moveable or immoveable, or any part thereof, shall be subject in any manner whatsoever to such debts or liabilities (except as hereinbefore excepted) or any part thereof.

Power to appoint new officers.

17. It shall be lawful for the Governor in Council from time to time to appoint new officers to carry this Act into effect, and all such officers shall have the same powers as the officer or officers first appointed.

Powers for enforcing payment of fines.

18. Officers appointed under this Act shall have the same powers for enforcing the payment of fines imposed under this Act as are given to Courts by section 386 of the Code of Criminal Procedure, 1882.[a] X of 1882.

Suits cognizable by Civil Courts.

19. Notwithstanding anything to the contrary in this Act, it shall be lawful for the Civil Courts to entertain and dispose of suits relating to the succession to, or rights of coparcenary in, or rights of persons claiming maintenance out of, any landed estate or estates brought under the operation of this Act:

Indemnity to Crown, Government or managing officer.

Provided always that neither the Crown nor Government, nor any officer or officers appointed under this Act, shall be liable to any suit for or in respect of any act or acts done in good faith by such officer or officers.

Proprietorship of táluqdár after termination of management.

20. From and after the expiration of the period of management of the estate of any táluqdár, whether such period extend to, or be less than, twenty years, the táluqdár shall be the absolute proprietor of his said landed estates as regards succession to and possession, management and transfer of, the same, subject to such land-tax as the Governor in Council may be pleased to reserve and all usual remedies for the recovery thereof.

Interpretation-clause.

21. [b] In this Act, [b] unless there be something in the subject or context repugnant to such construction, [b]—

(1) the term "Civil Court" shall mean and include every Court of Civil Judicature in the Presidency of Bombay whether established by Royal Charter or not.

(2) *and* (3) [*Repealed by Bom. Act III of 1886.*]

[a] The reference to s. 61 of Act XXV of 1861 is altered in accordance with Act X of 1872, Sch. V, and Act X of 1882, s. 3. (For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.)

[b] Words repealed by Bom. Act III of 1886 are omitted.

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BOMBAY ACT No. I OF 1863.

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 2nd February, 1863.*)

An Act for the registry of vessels and levy of pilotage-fees on the river Indus.

Preamble.—

WHEREAS it is expedient to provide for the registry of vessels plying on the river Indus and its tidal channels within the Province of Sindh, and for the establishment of competent pilots, and for the levying of fees in respect of the same; [a] It is enacted as follows :—

Vessels to be registered and marked with number, burthen and indi-

1. Every vessel plying on the river Indus and its tidal channels within the Province of Sindh shall be registered by an officer appointed for the purpose, who shall be called the Registrar of boats, and every vessel so registered shall

[a] Words repealed by Act XII of 1873 are omitted.